UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION) MDL No. 1456) Master File No. 01-12257-PBS) Subcategory Case No. 06-11337
THIS DOCUMENT RELATES TO:) Judge Patti B. Saris
State of California, ex rel. Ven-A-Care of the Florida) Magistrate Judge
Keys, Inc. v. Abbott Laboratories, Inc., et al.) Marianne B. Bowler
Case No: 1:03-cv-11226-PBS)
)

PLAINTIFFS' UNOPPOSED MOTION TO RESCHEDULE HEARING ON SUMMARY JUDGMENT MOTIONS

Plaintiffs, the State of California and Ven-A-Care of the Florida Keys, Inc. (Plaintiffs), with the agreement of Defendants, move to reschedule the hearing on the parties' cross-motions for summary judgment and Defendants' Motion to Remand, from the current date of November 30, 2010 to December 22, 2010, or such other date as may be convenient to the Court and the parties. In support of this Motion, which is not opposed by Defendants, Dey, Inc., Mylan Inc., and Sandoz Inc. (Defendants), Plaintiffs state as follows:

- 1. On August 30, 2010, the Court scheduled a hearing for November 17, 2010 (the hearing) on a number of motions pending in this matter, including (a) Defendants' Motion to Remand this matter (#6696); (b) Plaintiffs' Motion for Partial Summary Judgment (#6685); (c) Defendants Dey, Inc. and Dey, L.P.'s Motion for Partial Summary Judgment (#6694); (d) Defendant Sandoz, Inc.'s Motion for Summary Judgment (#6696); and (e) Defendants Mylan, Inc and Mylan Pharmaceutical Inc.'s Motion for Partial Summary Judgment (#6704).
- 2. On November 4, 2010, the Court *sua sponte* rescheduled the hearing on the foregoing Motions to November 30, 2010 at 9:00 a.m. .

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3. The rescheduled hearing date is the Tuesday morning following Thanksgiving weekend.

The November 30, 2010 hearing date poses travel problems for California counsel for Ven-A-

Care and the State. Immediately on receiving notice of the hearing's rescheduled date of

November 30, 2010, California counsel attempted to re-book their flights for Sunday, November

That proved impossible as that is the last day of the Thanksgiving weekend, and no

Southwest flights (California's contracted carrier) had any remaining seats. Scheduling flights

for the Monday before the hearing (the day before the hearing) is now significantly more

expensive for the State and would mean a late night arrival the night before the hearing.

4. Plaintiffs have consulted with counsel for Defendants, all of whom provided

Plaintiffs with their respective available dates between November 30 and December 24.

5. All parties are available to attend a hearing on December 22.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court reschedule the

pending hearing date on the Motions from November 30, 2010 to December 22, 2010 or another

appropriate date.

Dated: November 10, 2009

Respectfully submitted,

EDMUND G. BROWN JR.

Attorney General of the State of California

By: /s/ Nicholas N. Paul

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CERTIFICATE OF SERVICE

I, Nicholas N. Paul, hereby certify that on November 10, 2010, I caused a true and correct copy of the foregoing, PLAINTIFFS' UNOPPOSED MOTION TO RESCHEDULE

HEARING ON SUMMARY JUDGMENT MOTIONS, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Nicholas N. Paul NICHOLAS N. PAUL